

Minute Order Form (06/97)

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Elaine E. Bucklo	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	00 C 882	DATE	6/9/2000
CASE TITLE	In Re: In Re: John A. Hanno		


[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

--

## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] John A. Hanno's emergency motion for temporary restraining order and permanent injunction is denied for the reasons set forth on the reverse side of this minute order. The present appeal is stayed pending the bankruptcy judge's consideration of the Rule 9024 motion. If the bankruptcy judge concludes that he would be likely to grant relief that would impact the appeal, he can so state and I will formally remand the case for entry of such an order.
- (11) ☒ [For further detail see order on the reverse side of the original minute order.]

<input type="checkbox"/> No notices required, advised in open court.		<b>Document Number</b> 14
<input type="checkbox"/> No notices required.		
<input type="checkbox"/> Notices mailed by judge's staff.		
<input type="checkbox"/> Notified counsel by telephone.		
<input checked="" type="checkbox"/> Docketing to mail notices.		
<input type="checkbox"/> Mail AO 450 form.		
<input type="checkbox"/> Copy to judge/magistrate judge.	number of notices JUN 12 2000 date docketed docketing deputy initials date mailed notice mailing deputy initials	
MPJ	courtroom deputy's initials	Date/time received in central Clerk's Office

In re: John A. Hanno, No. 00 C 882

Debtor John Hanno's emergency motion for injunctive relief is denied. Mr. Hanno seeks an injunction staying all actions to evict debtor from his home and enjoining TCF from transferring or otherwise disposing of his property. Before such an injunction may issue, Mr. Hanno must show, at the very least, some likelihood that he will prevail on the merits. He has failed to make this showing. First, this court cannot enjoin the eviction proceeding under the Rooker Feldman doctrine since the eviction was ordered by a state court. Mr. Hanno argues that TCF breached a stipulated settlement in the bankruptcy court by refusing to tender a payoff letter that would enable Mr. Hanno to sell his property. But the support for that contention consists of a belated affidavit from a lending officer that he was told that TCF would not issue a payoff letter if the buyer was Mr. Hanno. The lender's affidavit also states that it might have made the loan if not for this statement. But that is different from a statement that a loan was approved and was prevented from going through by action by TCF (which was obligated by the settlement agreement to issue a payoff letter on demand, although Mr. Hanno was also obligated to provide TCF with any proposed contract of sale before entering into such a sale; Mr. Hanno does not represent that he complied with this requirement). Furthermore, neither the lending officer's affidavit nor any other affidavit states why Mr. Hanno could not have obtained this information prior to the dismissal of the bankruptcy.

Mr. Hanno has also brought a motion pursuant to Bankruptcy Rule 9024 before the bankruptcy judge who dismissed his bankruptcy. I agree that whether there was a violation of the stipulated settlement and if so what relief should be granted, is most appropriately considered by the bankruptcy court in the first instance. Accordingly, I will stay the present appeal (on which I note, however, that Mr. Hanno has obtained three extensions of time within which to file his brief in support) pending the bankruptcy judge's consideration of the Rule 9024 motion. If the bankruptcy judge concludes that he would be likely to grant relief that would impact the appeal, he can so state and I will formally remand the case for entry of such an order. Since on this record, however, Mr. Hanno has not demonstrated a likelihood of success on that motion, his motion for emergency relief is denied.

ENTER ORDER:

---

Elaine E. Bucklo

United States District Judge

Dated: June 9, 2000